

REMARKS

Claims 1 to 31 are pending in this application. Claims 1, 14, 29 and 31 have been amended.

Rejections under 35 U.S.C. § 103

Claims 1 to 4, 7 to 19, and 22 to 31 are rejected under 35 U.S.C. § 103 as obvious over U.S. Patent No. 6, 758,859 (“Dang”) in view of U.S. Patent No. 6,193,747 (“von Oepen”). Claims 5, 6, 20, and 21 are rejected under 35 U.S.C. § 103 as obvious over Dang in view of von Oepen in further view of U.S. Patent Application Publication No. 20010029351 (“Falotico”).

Applicant respectfully traverses the rejection of the claims. Neither Dang in view of von Oepen nor Dang in view of von Oepen in further view of Falotico suggest or render obvious the present claimed invention. Each of the independent claims will be separately addressed.

Independent Claim 1

The Examiner states that Dang discloses the invention as claimed except for the requirement that the connection portion is in the shape of a lambda or the specific percentage ranges of the recesses. Claim 1 has been amended to remove the requirement that the connection portion is in the shape of a lambda.

Applicants respectfully submit that the Examiner has misinterpreted Dang and that Dang does not disclose or teach the claimed invention. Claim 1 requires that each connection element have a rectilinear portion and a curved portion. Dang does not suggest or render obvious that the connection element has both rectilinear and curved portions. Dang discloses a rectilinear connection element in all of the drawings. At col.3, lines 60 to 64, Dang provides that “the interconnecting elements 24 may also have a variety of shapes and patterns including, but not limited to, circular, oval, straight, curved, etc.” Thus, Dang expresses no

particular preference as to the shape of the interconnecting elements and certainly does not teach that the connector should have a shape which combines both a rectilinear portion and a curved portion. The language contained at col. 8, lines 36 to 41, which is referred to by the Examiner merely explains that curved portions of either elongate elements 22 or interconnecting elements 24 are not generally desirable for depot formation. This is entirely consistent with the earlier description at col. 3, lines 60 to 64, that the interconnection elements can have a variety of shapes including circular, curved or oval and does not suggest that the interconnecting elements have both a rectilinear portion and a curved portion. Further, there is no motivation or reason for a person of ordinary skill in the art to modify Dang by replacing the rectilinear interconnecting elements which are included in all of the disclosed embodiments with connecting elements having both a rectilinear portion and a curved portion. Motivation for such a modification is not provided by Dang, which, as stated before, discloses only rectilinear interconnecting elements and, although other shapes may be acknowledged, expresses no preference for what those shapes may be. Additionally, modification of the stents disclosed in Dang in this manner is not merely a matter of routine design choice. For example, replacement of Dang's rectilinear connector with one having both rectilinear and curved portions such as disclosed in von Oepen would require additional modifications to the stent such as changes in number, size and spacing of elements 22. These changes in turn can affect functional and performance characteristics of the stent.

Accordingly, Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 103 as obvious over Dang in view of von Oepen be withdrawn.

Claims 2 to 13 depend from claim 1 which Applicants believe is allowable for the reasons stated above. Since dependent claims 2 to 13 add further

limitations to claim 1, Applicants believe that dependent claims 2 to 13 are allowable.

Independent Claim 14

Claim 14 was amended to require that each connection element have a first end connected to an annular element at a zero point of the sinusoidal shape of the annular element and a second end connected to an adjacent annular element at a zero point of the sinusoidal shape of the adjacent annular element. Neither Dang nor von Oepen has this structure. The connecting elements of Dang and von Oepen are connected between peaks and valleys of the sinusoidal annular elements.

Accordingly, Applicants respectfully request that the rejection of claim 14 under 35 U.S.C. § 103 as obvious over Dang in view of von Oepen be withdrawn.

Claims 15 to 28 depend from claim 14 which Applicants believe is allowable for the reasons stated above. Since dependent claims 15 to 28 add further limitations to claim 14, Applicants believe that dependent claims 15 to 28 are allowable.

Independent Claims 29 and 31

Claims 29 and 31 have been amended to require that the connection elements have a rectilinear portion and a curved portion. Dang does not suggest or render obvious that the connection element has both rectilinear and curved portions for the reasons set forth in connection with claim 1 which are equally applicable to amended claims 29 and 31.

Accordingly, Applicants respectfully request that the rejection of claims 29 and 31 under 35 U.S.C. § 103 as obvious over Dang in view of von Oepen be withdrawn.

Claim 30 depends from claim 29 which Applicants believe is allowable for the reasons stated above. Since dependent claim 30 adds further limitations to claim 29, Applicants believe that dependent claim 30 is allowable.

Terminal Disclaimer

Claims 1, 14, 29 and 31 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 6 of U.S. Patent No. 6,699,281.

A Terminal Disclaimer in compliance with 37 C.F.R. 1.312(c) is enclosed herewith.

Conclusion

In view of Applicant's amendments and remarks, the claims are believed to be in condition for allowance. Reconsideration, withdrawal of the rejections, and passage of the case to issue is respectfully requested.

Amendment and Response
Serial No.: 10/790,649
Applicants: Franco Vallana et al.

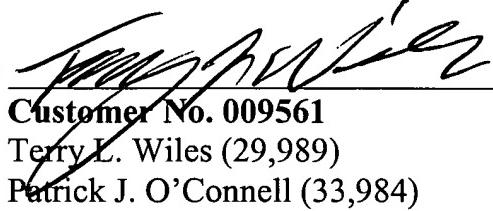
Attorney Docket: SBC1025USC1

If any additional fees are due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 16-2312. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

Date: 11/18/05

By


~~Terry L. Wiles~~

Customer No. 009561

Terry L. Wiles (29,989)

Patrick J. O'Connell (33,984)

Micheal S. Wiles (56,789)

POPOVICH, WILES & O'CONNELL, P.A.

650 Third Avenue South, Suite 600

Minneapolis, MN 55402-1911

Telephone: (612) 334-8989

Representatives of Applicants